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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/601,894	06/23/2003	Kathryn Gardner Zesk		7567	
75	90 07/14/2006		EXAMINER		
Kathryn Zesk			KING, ANITA M		
2197 Beaver Dam Road Cassatt, SC 29032			ART UNIT	PAPER NUMBER	
ŕ			3632	3632	
			DATE MAILED: 07/14/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/601,894	ZESK, KATHRYN GARDNER		
Examiner	Art Unit		
Anita M. King	3632		

a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expires 3_months from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. I no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, sheek either box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is 60 the final rejection, and the surport of the feed of the final rejection, even if timely filed any reduce any extended probability of the final rejection, even if timely filed any reduce any extended probability of the final rejection, even if timely filed any reduce any extended part of Appeal and filed, any reply must be filed within the time period set forth in 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal was filed on		Anita M. King	3632						
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.13.1 or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expires 3, months from the mailing date of the final rejection. □ Prior (1) The period for reply expires 3, months from the mailing date of the final rejection. Examiner Note: I flox 1 is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MPEP 766.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on whither the petition under 37 CFR 1.136(a) and the appropriate extension fee hander 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) set front in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final Office action, or (2) set front in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final Office action, or (2) set front in (b) above, if checked. Any reply must be filled within the time period set forth in 37 CFR 41.37(a). MINIOR OF APPEAL ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filled within the time period set forth in 37 CFR 41.37(a). MINIOR OF APPEAL OFFIEAL OF	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress					
this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 4.1.14. The reply must be filed within one of the following time periods: a) The period for reply expires 2. months from the mailing date of the final rejection. b) The period for reply expires 2. months from the mailing date of the final rejection. c) The period for reply expires 2. months from the mailing date of the final rejection. c) The period for reply expires 2. months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. I no event, however, will the statutory period for reply expire later than 51x MONTHS from the mailing date of the final rejection. Examiner Note: If box 15 is checked, check either box (a) or (2). O.NLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 766.07(i). Extensions of time may be obtained under 37 CFR 1.136(a). O.NLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 766.07(i). Extensions of time may be obtained under 37 CFR 1.136(a). O.NLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 766.07(i). Extensions of time may be obtained under 37 CFR 1.136(a). O.NLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 766.07(i). Extensions of time may be obtained under 37 CFR 1.136(a). On the propose of determining the period of reply expirate was extension fee any because of the final rejection and the corresponding amount of the fee. The appropriate extension fee and the corresponding amount of the fee. The appropriate extension fee and the corresponding amount of the fee final rejection, even if finally reply and the final rejection reply finally finally fee finally reply	THE REPLY FILED <u>20 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.								
no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date to final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL RELECTION. See MPEP 706.07(n). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee and be been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as left fin (i) obsore, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b). MOTICE OF APPEAL. ☐ The Notice of Appeal was filed on, A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDINENTS. MENDINENTS	1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following								
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Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Newly proposes of appeal, the proposed amendment(s): a) \(\) will not be entered, or b) \(\) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: \(\frac{1-3}{3} \) and \(\frac{5}{3}. \) Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. \(\) The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. \(\) The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. \(\) The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. \(\) The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. \(\) Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s)									
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because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Anita M. King									
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10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: see attachment. Anita M. King	7. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a								
11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 13. Other: see attachment. Anita M. King									
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) 13. ☑ Other: see attachment. Anita M. King									
13. ☑ Other: <u>see attachment.</u> Anita M. King	·								
Anita M. King	· · · · · · · · · · · · · · · · · · ·								
Art Unit: 3632	13. ⊠ Other: <u>see attachment</u> .		Primary Examiner	•					

U.S. Patent and Trademark Office PTOL-303 (Rev. 7-05)

Continuation Sheet (PTO-303)

Continuation of 3. NOTE: the limitation of a radius/hook at the top that "is directly attached to the primary material" would require further search and/or consideration, i.e., this limitation was not presented in the claim prior to the final office action. (Consult the MPEP via the internet).

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Attachment

Response to Amendment

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 recites the limitation "the ground anchor" in lines 4 and 8. There is insufficient antecedent basis for this limitation in the claim. The claim previously cites an anchoring device, not a ground anchor.

Note: the amendment filed March 20, 2006 was not entered.

Response to Arguments

Applicant's arguments filed March 20, 2006 have been fully considered but they are not persuasive. The rejections advanced against the claims stand.

In response to applicant's argument that Messick includes a horizontal ring with multiple helical springs and a setscrew to engage baskets and are not directly attached to the primary material, the examiner disagrees, the springs (10) are directly attached to the primary material which consist of elements (5, 6, 7, and 8), the ring (7) is formed as a continuous portion of elements (5, 6, and 8) and thus, Messick meets this limitation.

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In response to applicant's arguments that Messick the vertical shaft (5) is formed by bending the primary material into a ring (7), the radius/hook in Messick is element 11, which is a part of spring (10) that is directly attached to the primary material at the top thereof via the ring.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the device sits flat upon the ground and has no limitation to the size of the floral container being anchored) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anita M. King / Primary Examiner Art Unit 3632

July 5, 2006